

From: Kevin Bailey
To: Microsoft ATR
Date: 1/25/02 12:02pm
Subject: Microsoft Settlement

Dear Sirs:

I am a US citizen as well as a long time user of Microsoft's operating systems and other "competing" operating systems so I would like to comment on the proposed settlement with Microsoft as specified under the Tunney Act.

I do not believe the proposed settlement will curb Microsoft's illegal behavior and furthermore it does nothing to lower the barrier to entry faced by competitors.

The proposed settlement may require Microsoft to publish the documentation to its APIs but it doesn't specify what an API is well enough to cover everything that's needed by a competitor. Furthermore, the settlement requires competitors to pay royalties to even use the API and leaves copyright and patent issues unclear. Competitors like Wine are left worrying as they make an alternative to Microsoft's operating systems.

Above all, there is no enforcement of this settlement. An oversight group is formed but it has observational powers only which is further diluted by one of the members being a Microsoft representative. It seems to me that we're left hoping that Microsoft will police itself which we know that they are incapable of doing since they claim they've done nothing wrong to this day. I predict they will continue doing everything they've done until they're brought back to court. Even if they are brought back to court, there is enough ambiguity within the settlement that any competent lawyer could make the case that Microsoft hasn't broken the settlement, as mentioned above.

Regards,
Kevin Bailey